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Fleit Gibbons Gutman Bongini & Bianco PL
21355 EAST DIXIE HIGHWAY
SUITE 115
MIAMI FL 33180

In re Application of :
Mechoulam et al. :
Application No.: 10/597,166 :
PCT No.: PCT/IL2005/000053 :
Int. Filing Date: 14 January 2005 : DECISION
Priority Date: 15 January 2004 :
Attorney Docket No.: 7056-X09-004 :
For: Therapeutic Use Of Quinonoid :
Derivatives Of Cannabinoids :

This is in response to the petition to revive under 37 CFR 1.137(a) filed on 16 November 2009.

BACKGROUND

This international application was filed on 14 January 2005, claimed an earliest priority date of 15 January 2004, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 28 July 2005. The 30 month time period for paying the basic national fee in the United States expired at midnight on 15 July 2006. Applicants filed *inter alia* the basic national fee on 13 July 2006.

On 21 July 2008, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring \$745.00 in additional claims fees, an oath or declaration compliant with 37 CFR 1.497(a) and (b), and certain requirements with respect to a "sequence listing."

On 31 August 2008, applicants filed a response.

On 07 November 2008, a Decision was mailed to applicants, withdrawing the requirements related to the "sequence listing" but affirming the propriety of the other requirements set by the Notification of Missing Requirements.

On 05 December 2008, applicants filed a response, including a declaration.

On 28 September 2009, a Notification of Abandonment (Form PCT/DO/EO/909) was mailed to applicants, indicating that this international application had become abandoned with respect to the national stage in the United States for failure to timely reply to the Notification of Missing Requirements mailed on 21 July 2008 and the Decision mailed on 07 November 2008. Specifically, it was noted that the declaration "looks like a composite."

DISCUSSION

37 CFR 1.137(a) provides that

(a) *Unavoidable*. If the delay in reply by applicant or patent owner was unavoidable, a petition may be filed pursuant to this paragraph to revive an

abandoned application, a reexamination proceeding terminated under §§ 1.550(d) or 1.957(b) or (c), or a lapsed patent. A grantable petition pursuant to this paragraph must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(l);
- (3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

With regard to requirement (1), petitioner has filed the required reply in the form of an acceptable declaration.

Concerning requirement (2), petitioner has paid the petition fee pertaining to a petition under 37 CFR 1.137(b), as opposed to 37 CFR 1.137(a). The excess payment will be refunded.

With respect to requirement (3), counsel has not provided an adequate showing that the entire delay in filing the required reply was "unavoidable" within the meaning of 37 CFR 1.137(a). The petition form indicates that such showing "is enclosed," but no evidence or remarks accompanied the petition form.

Regarding requirement (4), no terminal disclaimer is required.

DECISION

The petition under 37 CFR 1.137(a) is **DISMISSED**, without prejudice.

If reconsideration on the merits of this matter is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are available.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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